

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSE DANIEL CRUZ-APONTE,)
)
Petitioner,) Case No. 1:11-cv-108-SJM-SPB
)
)
V.)
)
ARCHIE B. LONGLEY,)
)
)
Respondent.)

MEMORANDUM ORDER

The instant petition for writ of habeas corpus was received by the Clerk of Court on May 16, 2011 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Report and Recommendation, filed on April 19, 2012 [10], recommends that the instant petition for writ of habeas corpus be dismissed for lack of subject matter jurisdiction. The parties were allowed fourteen (14) days from the date of service in which to file objections. Service was made on Petitioner by certified mail at FCI-McKean, where he is currently incarcerated, and on the Respondent. No objections to the Report and Recommendation have been filed to date.

After de novo review of the petition and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 18th Day of May, 2012;

IT IS ORDERED that the instant petition for writ of habeas corpus shall be, and hereby is, DISMISSED WITH PREJUDICE for lack of subject matter jurisdiction.

The Report and Recommendation of Magistrate Judge Baxter, filed on April 19, 2012 [10], is adopted as the opinion of the Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

Cm: All parties of record.

U.S. Magistrate Judge Susan Paradise Baxter